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THE HON. SRI C. SUBRAMANIAM :—" Sir, I may assure the hon. Member that as long as I am responsible for this, no interference in individual cases will be resorted to. Our intention is only to lay down general policies for the guidance of the licensing authorities. As a matter of fact, that is our intention in respect of the Motor Vehicles Act also. I thought that the criticism with regard to that Act was with reference to the orders passed under section 64-A which has now been revoked. (Interruption.). It is not with reference to section 43-A or any other section. There has been criticism only with reference to the orders passed under section 64-A which has now been annulled."

MR. CHAIRMAN :—" The question is—

' That the Madras Cinemas (Regulation) Bill, 1954 (L.A. Bill No. 52 of 1954), as passed by the Assembly, be passed.' "

The motion was carried and the Bill was passed.

(2) THE PRESIDENCY SMALL CAUSE COURTS (MADRAS AMENDMENT) BILL, 1955 (L.A. BILL NO. 8 OF 1955).

THE HON. SRI C. SUBRAMANIAM :—" Mr. Chairman, I move—

' *That the Presidency Small Cause Courts (Madras Amendment) Bill* [a], 1955 (*L.A. Bill No.* 8 *of* 1955), *as passed by the Assembly, be taken into consideration.*' "

SRI K. BHASHYAM :—" Sir, I thought that the Court Fees Bill will be taken up before this Bill."

MR. CHAIRMAN :—" I think it was decided to take the Bills in the order in which they are given in the Agenda."

THE HON. SRI C. SUBRAMANIAM :—" Sir, this Bill is a very simple one. Whatever objection was there to this Bill, was removed by the amendment made to the Bill in the Assembly with reference to the scale of court-fee payable. There was no provision for the collection of court-fee in cases of pauper suits even when the plaintiffs succeeded in the Presidency Small Cause Courts. That is being amended now. Then with reference to the scale of fee, a special scale of fee was prevalent in these courts. As a matter of fact as high a rate as Rs. 2 up to amounts of Rs. 200 was collected. Over and above that $11\frac{1}{4}$ per cent was collected, up to Rs. 2,000. Above that there was another scale. Now we have passed in the Assembly the Court Fees Bill. That will be coming up before this House a little later. Since that is also coming up we have made the rates uniform and said that $7\frac{1}{2}$ per cent will be the rate in respect of these courts also. This rate having been accepted by the Assembly, I do not think there will be any serious objection to the passing of the Bill here." 11-30 a.m.

[a] Printed as Appendix III on pages 984–988 infra.

MR. CHAIRMAN :—" Motion moved—

'That the Presidency Small Cause Courts (Madras Amendment) Bill, 1955 (L.A. Bill No. 8 of 1955) as passed by the Assembly, be taken into consideration.' "

SRI K. BALASUBRAMANYA AYYAR :—" Mr. Chairman, Sir, there are one or two points on which I want to say a few words. So far as the pauper suits are concerned, it is all right to collect the court-fee in the case where the plaintiff succeeds. But when a pauper suit is dismissed, it will be a great hardship if the court-fee is to be collected from the plaintiff. New section 74-B says :

'Where the plaintiff or applicant fails in the suit the Small Cause Court shall order the plaintiff or applicant or any person added as a co-plaintiff to the suit to pay the fee. . . .'

This is rather hard. There was no such provision at all in the Presidency Small Cause Courts Act. When the plaintiff succeeds it is all right to collect the fees. In that case the defendant will pay the costs. That will be the first charge on the subject-matter of the suit. These suits are instituted mainly to benefit the paupers. A very large number of these suits are for very small amounts of about Rs. 500 or Rs. 1,000. The suit is registered as a pauper suit because the person concerned is not able to pay the court-fee. Therefore it would be a great hardship if the Government were to collect court-fees from persons who fail in the suits."

THE HON. SRI C. SUBRAMANIAM :—" We will collect the fees only when he succeeds in the case and gets properties."

SRI A. M. ALLAPICHAI :—" The court will go into the question whether he will be able to pay the court-fee or not."

SRI K. BALASUBRAMANYA AYYAR :—" Sir, apart from the subject-matter of the suit, the suit of the man who is unable to pay the court-fee even on Rs. 500 is registered as a pauper suit. Supposing in that case he fails for other reasons, how can he pay the court-fees? That would be very hard on him. That is why the Presidency Small Cause Courts never interfered in such cases, whether the plaintiff succeeded or failed. So far as recovery of court-fees in cases where the plaintiff has succeeded, the defendants are asked to pay. It is also the first charge on the subject-matter of the suits. Why extend this principle of collecting fees in cases where the plaintiffs fail.

" Then with regard to the new section 74-C which says : 'Where a Small Cause Court finds that a suit or application received and registered under section 74 has been instituted unreasonably or improperly . . . .' What is unreasonable and improper, I do not understand.

" These two provisions will work great hardship on the plaintiffs. These provisions were not there formerly. Why introduce them now?

"Then, Sir, the fee for vakalatnama has been increased to Rs. 1–8–0. These Small Cause Courts were really intended to benefit the poor people. That is why these fees were not at all fixed for all these things. Why should they be increased now? The present rates may be allowed to remain. But if the Government still want that the rates given in the Bill should be collected, let them have it. When the rules were framed by the great English administrators, these were intended to benefit the poor people and therefore they did not impose high fees. I do not understand why we should now increase the fees.

"Then, Sir, there is another aspect of the matter. I do not know whether the Government have considered that or not. In the Presidency Small Cause Courts Act there is section 40 under which power was given to the Original Side to try suits above Rs. 1,000. Now if Government want these things to go to the City Civil Courts, that provision has got to be amended. These are the points I wanted to mention, Sir."

THE HON. C. SUBRAMANIAM :—"Mr. Chairman, Sir, these are not new things. What is done in the Civil Procedure Code and in the mufassal courts is being incorporated in the Presidency Small Cause Courts Act. If a partner has to pay court-fee in the mufassal courts I do not see why a similar person simply because he is residing in the City should get exemption. With reference to the point made by the hon. Member Balasubramanya Ayyar regarding the losing plaintiff that he is being made to pay court-fee, it is only subsequently when he becomes possessed of property that execution is taken against him for the collection of the court-fees, and the court-fee realized from him. This is the case in the mufassal also. The Collector makes an enquiry and if he finds that subsequently he has become rich and acquired property, then only he is proceeded against. That provision will have to be there. Otherwise all sorts of frivolous suits may be filed in the courts and we will only be encouraging them. I do not think we are making any extraordinary provision. We are only adopting the Civil Procedure Code. Simply because a person resides within the limits of Madras City, it does not mean he should have greater privileges than those enjoyed by a similar person residing in the mufassal. Regarding vakalatnama also, Rs. 1–8–0 is the fee prescribed in the mufassal courts also. Therefore, I think, I cannot make any distinction between the City courts and the mufassal courts. We are only trying to adopt a uniform rate for the City as well as the mufassal courts."

SRI A. M. ALLAPICHAI :—"Why not reducce the rates in the mufassal instead of increasing the rates in the City courts?"

MR. CHAIRMAN :—"The question is—

'That the Presidency Small Cause Courts (Madras Amendment) Bill, 1955 (L.A. Bill No. 8 of 1955), as passed by the Assembly, be taken into consideration.'"

The motion was carried and the Bill was taken into consideration.

Clauses 2 to 8 were put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

THE HON. SRI C. SUBRAMANIAM :—" Mr. Chairman, Sir, I move—

'*That the Presidency Small Cause Courts (Madras Amendment) Bill, 1955 (L.A. Bill No. 8 of 1955), as passed by the Assembly, be passed.*' "

MR. CHAIRMAN :—" The question is—

' That the Presidency Small Cause Courts (Madras Amendment) Bill, 1955 (L.A. Bill No. 8 of 1955), as passed by the Assembly, be passed.' "

The motion was carried and the Bill was passed.

(3) THE TANJORE CHATTRAM ENDOWMENTS (UTILIZATION) AMENDMENT BILL, 1955 (L.A. BILL NO. 10 OF 1955).

11-40 a.m. THE HON. SRI B. PARAMESWARAN :—" Mr. Chairman, Sir, I move—

'*That the Tanjore Chattram Endowments (Utilization) Amendment Bill*[a], *1955 (L.A. Bill No. 10 of 1955), as passed by the Assembly, be taken into consideration.*'

The Tanjore Chattram Endowments are under the control of the District Board, Tanjore. Under the provisions of the Tanjore Chattram Endowments (Utilization) Act, 1942 (Madras Act VIII of 1942), the income from the Tanjore Chattram Endowments are utilized for the maintenance of certain educational and medical institutions.

" At the instance of the Tanjore District Planning Board, steps are being taken to start a first-grade college at Tanjore. To accord recognition to the college, the Madras University requires a financial guarantee of about Rs. 5 lakhs. The District Board, Tanjore, has come forward to set apart the surplus funds of the Tanjore Chattram Endowments amounting to Rs. 4,94,500 as security for getting recognition to the proposed college and to make a fixed annual contribution of Rs. 15,000 for its maintenance out of the interest derived from the above security. The trust will be under the joint control of the Madras University, the District Board, Tanjore, and the managing body of the proposed college. To enable the district board to give effect to the decision, the Tanjore Chattram Endowments (Utilization) Act, 1942, has to be amended.

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[a] Printed as Appendix IV on pages 988–989 infra.